IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1467 OF 2007
IN
SUIT NO.1313 OF 1979

Rekha Punjabi ... Plaintiff
versus
D.P.Jogi and others ... Defendants

CORAM : A.M.KHANWILKAR, J.
DATE : 17th September 2007

PC :-

1. Present Chamber Summons has been taken out by the plaintiffs on 6th September 2007 after oral arguments in the suit were concluded on 29th August 2007. Obviously to over come the argument canvassed on behalf of the defendants, the plaintiff has taken out the present Chamber Summons requesting for liberty to amend the plaint in particular Exhibit-A to the plaint. It is not in dispute that the Chamber Summons has been served on the advocate for the defendants on 6th September 2007.

2. The suit was directed to be placed for pronouncement of judgement on 7th September 2007. However, on that day I was not available for Court work. As a result the registry notified

the suit for today for pronouncement of judgement. However, as mentioned earlier, the plaintiff has filed the present Chamber Summons on 6th September 2007 which was listed initially on 11th September 2007 but was adjourned to 12th September 2007 but on 12th September 2007 it was ordered to be placed today as the suit was incidentally fixed for pronouncement of judgement today.

3. Accordingly, I now proceed to first decide the Chamber Summons taken out by the plaintiff. No reply has been filed by the defendants to oppose this Chamber Summons. Counsel appearing for the defendants states on instructions that the defendants would submit to the orders of the Court. They are neither opposing the Chamber Summons nor conceding to the prayers in the Chamber Summons. Counsel for the defendants did not address any submission beyond making above statement. After having considered the averments in the affidavit, in particular para no.6, which have remained uncontroverted, it is obvious that the omission is accidental omission as is stated. As soon as the plaintiff has realised the mistake, has moved present Chamber Summons. It is seen that the description of the property in

the plaint as well as Exhibit-A refers to the area of the suit property as admeasuring 5,900 sq.mtr.. Due to inadvertence reference was not made to Final Plot No.73 and CTS No.106 though the same constitute the suit property. On considering the measurement of all the plots referred to in Exhibit-A, the area of the suit property is 5,900 sq.mtrs. or thereabout in respect of which the plaintiff claims that there was concluded contract between the parties, specific performance thereof has been asked as main relief in the suit. Taking over all view of the matter, in the interest of justice, the plaintiff deserves to be shown indulgence of granting relief in terms of prayer clauses (a) and (b). Counsel for the defendants submits that if the Court is inclined to allow this Chamber Summons the defendants are not insisting for costs. For that reason no cost is awarded. Counsel for the plaintiffs assures to carry out the amendment by tomorrow. Chamber Summons is allowed in the above terms. The suit be placed for pronouncement of judgement on 21st September 2007 at 03.00 p.m..

(A.M.KHANWILKAR, J.)